

HOUSE BILL 28
By Todd

AN ACT to amend Tennessee Code Annotated, Title 5, Chapter 1;
Title 6, Chapter 55; Title 5, Chapter 3 relative to local
income taxes and payroll taxes.

WHEREAS, municipalities, counties and metropolitan governments are creations of the State and possess only those powers that are delegated to them by the Tennessee Constitution or through enactments of the General Assembly; and

WHEREAS, the Tennessee Constitution does not directly grant any taxation powers to municipalities, counties or metropolitan governments; and

WHEREAS, Article XI, Section 9, of the Tennessee Constitution specifically prohibits the General Assembly from authorizing any municipal taxation of incomes; and

WHEREAS, in 1932, in the case of Evans v. McCabe, 52 S.W.2d 159; once again in 1960, in the case of Jack Cole Co. v. MacFarland, 337 S.W.2d 453; and still again in 1964, in the case of Gallagher v. Butler, 378 S.W.2d 161; the Tennessee Supreme Court unanimously ruled that the General Assembly also lacks constitutional authority to levy a state tax on any class of income other than income derived from stocks and bonds; and

WHEREAS, the aforementioned decisions of the Tennessee Supreme Court have never been overruled; and

WHEREAS, clearly, the General Assembly can neither exercise nor delegate authority it lacks; and

WHEREAS, any tax measured by an individual's earned income, an employee's salary, or an employer's payroll would be harmful to Tennesseans and is contrary to the longstanding public policy of this state and its political subdivisions; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 5, Chapter 1, is amended by adding the following language as a new, appropriately designated part:

§ 5-1-401. Notwithstanding the provisions of any private act; any county charter provision, ordinance, resolution, rule, regulation; or any other law to the contrary; no county shall assess, levy or collect any tax measured by an individual's personal income or salary or by an employer's payroll. The provisions of any private act, charter provision, ordinance, resolution, rule, regulation, or other law in conflict with the preceding sentence, shall be inoperative and of no effect after the effective date of this act.

SECTION 2. Tennessee Code Annotated, Title 6, Chapter 55, Part 1, is amended by adding the following language as a new, appropriately designated section:

§ 6-55-103. Notwithstanding the provisions of any private act; any municipal charter provision, ordinance, resolution, rule, regulation; or any other law to the contrary; no municipality shall assess, levy or collect any tax measured by an individual's personal income or salary or by an employer's payroll. The provisions of any private act, charter provision, ordinance, resolution, rule, regulation, or other law in conflict with the preceding sentence, shall be inoperative and of no effect after the effective date of this act.

SECTION 3. Tennessee Code Annotated, Title 7, Chapter 3, Part 2, is amended by adding the following language as a new, appropriately designated section:

§ 7-3-205. Notwithstanding the provisions of any private act; any metropolitan charter provision, ordinance, resolution, rule, regulation; or any other law to the contrary; no metropolitan government shall assess, levy or collect any tax measured by an individual's personal income or salary or by an employer's payroll. The provisions of any private act, charter provision, ordinance, resolution, rule, regulation, or other law in conflict with the preceding sentence, shall be inoperative and of no effect after the effective date of this act.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, then such invalidity shall not affect other provisions or applications

of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.